

**CITY OF NEWARK  
DELAWARE  
PUBLIC HEARING  
NOTICE**

**MAY 29, 2007 - 7:30 P.M.**

Notice is hereby given of a Public Hearing in the Council Chamber, Newark Municipal Building, 220 Elkton Road, on Monday, May 29, 2007, at 7:30 p.m., at which time the Council will consider the request of Tracks, Inc., for an extension of the "grandfathering" for the sale of alcoholic beverages for consumption on the premises at the location of the now closed Tracks Restaurant, located in the multi-story commercial building at 60 North College Avenue.

ZONING CLASSIFICATION – BC (General Commercial)

Susan A. Lamblack, MMC  
City Secretary

/s/

Advertised: **Newark Post – May 11 & 25, 2007**


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**CITY OF NEWARK  
DELAWARE**

**PLANNING DEPARTMENT**

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April 5, 2007

**TO:** Carl F. Luft, City Manager  
**FROM:** Roy H. Lopata, Planning Director   
**RE:** Extension of "Grandfathering" at 60 N. College

As you can see from the attached letter, the City is being asked to extend the "grandfathering," for the sale of alcoholic beverages for consumption on the premises at the location of the now closed "Tracks" restaurant located in the multi-story commercial building at 60 N. College Avenue. The current "grandfathering," will expire on April 8, 2007. While the letter does not mention this, based on my discussions with the owner of the property and the prospective restaurant/bar operator, it is my understanding that the forthcoming proposal will be for a restaurant similar to "Tomfoolery," now located in Middletown.

Please note, in this regard, that under the City's current Zoning Code requirements if Council does not extend the grandfathering at this location, no alcoholic beverages for consumption on the premises would be permitted to be sold at the 60 N. College Avenue location because the property is adjacent to residentially zoned parcels on E. Cleveland Avenue [Zoning Code Section 32-56.4(b)].

In any case, as you can see from this letter we have been requested to forward the request to extend the grandfathering to City Council to be considered at a future meeting.

If you have any questions, please let me know.

RHL/ed  
Attachment

cc: Susan Lamblack, City Secretary  
Roger A. Akin, City Solicitor  
John Potts, Acting Chief of Police

# LAW OFFICE OF MARK D. SISK, P.A.

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BY APPOINTMENT  
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(Mail reply to Wilmington)

MARK D. SISK (DE)

THOMAS G. HUGHES (DE)  
OF COUNSEL

April 4, 2007

Mr. Roy Lopata  
Director of Planning  
City of Newark  
220 Elkton Road  
Newark, DE 19711

RE: 60 N. College Avenue  
Tracks, Inc., d/b/a  
"Tracks" Restaurant

Dear Roy:

I represent Tracks, Inc., doing business as Tracks restaurant. As you know, Tracks operated for a time at the above location, but the restaurant is now closed.

We are in discussions concerning the future use of the premises. It is my understanding that the current alcohol license expires June 30th, 2007 but that, for City zoning purposes, the City may consider the "grandfather" date to be April 8th, 2007, when the doors closed. To that extent, we would request that an item be put on the Council agenda at the Council's convenience to consider a proposal for the future use of the property.

I would provide details of the proposal to you not less than ten (10) days before the Council considers it. At the meeting, a presentation would be made for Council's consideration.

It is my understanding that Council has considered such applications in the recent past, both from Shaggy's Restaurant in the Galleria and from the Graceland Group, concerning the Stone Balloon property. I am not available on May 14, 2007, if that date becomes a consideration.

Thank you for your attention to this matter. As always, if I may answer any questions, please call me at any time.

Respectfully submitted,



Mark D. Sisk

cc: Tracks, Inc.

Mr. Todd Breck

Mr. Rick Biddle

Mayor Funk and Members of Council (email or U.S. mail)



*Attach to Item 7A.*  
*John Potts*

NEWARK POLICE DEPARTMENT  
NEWARK, DELAWARE

MEMORANDUM

May 21, 2007

TO: Mr. Carl Luft, City Manager

FROM: Captain John J. Potts, Acting Chief of Police *John Potts*

RE: 60 North College Avenue

This is the response to the proposed grandfathering of the alcohol license for the property located at 60 North College Avenue.

**Background**

I would first like to give you some brief background on the police experience at this location since January 1, 1998. The business located in the basement of 60 North College has operated under various names over the years. It began as the Down Under and since then it has also operated as Maxwell T's, The Ground Floor and Tracks. These establishments operated under a restaurant license where alcohol service is intended to complement food service. A search of the Police Departments' computer records reveals 957 incidents for this address. The breakdown is as follows:

Date Range	Total number of Police Responses
January 1 – December 31, 1998	144
January 1 – December 31, 1999	22
January 1 – December 31, 2000	92
January 1 – December 31, 2001	207
January 1 – December 31, 2002	103
January 1 – December 31, 2003	150
January 1 – December 31, 2004	150
January 1 – December 31, 2005	55
January 1 – December 31, 2006	28
January 1 – December 31, 2007	7

<b>Year</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>	<b>J</b>
<b>1998</b>	14	19	0	0	0	1	23	2	0	1
<b>1999</b>	1	4	0	0	0	0	10	0	1	0
<b>2000</b>	11	5	0	0	0	1	7	3	1	0
<b>2001</b>	28	35	0	0	2	1	25	2	1	0
<b>2002</b>	15	7	0	0	0	3	6	1	3	1
<b>2003</b>	7	18	0	0	0	0	4	5	1	1
<b>2004</b>	18	24	1	1	0	2	1	2	6	0
<b>2005</b>	4	2	0	0	0	0	1	0	0	0
<b>2006</b>	2	2	0	0	0	0	1	0	0	0
<b>2007</b>	1	0	0	0	0	0	0	0	0	0

**Key:** A = Alcohol Offenses  
B = Assault/Fights/Disorderly Conduct/Offensive Touching  
C = Robbery  
D = Sexual Offenses  
E = Shooting  
F = Drugs  
G = Prevent Breach of Peace/ Foot Patrol  
H = Criminal Mischief  
I = DUI  
J = Loud Music

The overall Police Department experience with 60 North College has not been a good one. Several businesses have attempted to establish a successful restaurant at this site. Past experience has shown that when food sales were not sufficient, these businesses (with the exception of Tracks) turned to more of a night club/bar operation. When the focus was on alcohol sales, police responses and complaints increased. The above table represents only a fraction of the total calls for service at 60 North College. A complete list for the years 1998 to 2007 is attached to this memorandum.

When the applicant met with Roy Lopata about reopening a restaurant at this location, he mentioned his plan was to operate as a restaurant by day and a bar at night.

### **Recommendation**

I strongly urge the City Council to reject the application. Extending the grandfathering and allowing a 'bar' operation to be established at this location would not benefit the neighborhood or the city. If Council rejects the application and allows the alcohol license to expire, a problem that has plagued the neighborhood and the city will not reoccur.